

When a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See 86 Ill. Adm. Code 130.605. (This is a GIL).

December 29, 1999

Dear Xxxxx:

This letter is in response to your letter dated November 9, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

We are a non profit company operating out of CITY/STATE. However we do sell products also and those are shipped out of Illinois. The sales to Illinois residents are minimal but they did amount to 2799.71 so far.

My questions are:

- Do we owe tax as a tax exempt entity?
- Do we owe Illinois sales tax as a STATE Entity shipping out of Illinois?
- If so, please advise how to administrate sales tax in your state.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See the enclosed copy of 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See the enclosed copy of 86 Ill. Adm. Code 150.101. If the purchases occur in Illinois, the purchasers must pay the Use Tax to the retailer at the time of purchase.

When tangible personal property is located in this State at the time of its sale (or is subsequently produced in this State) and then is delivered in this

State to the purchaser, the gross receipts from the sale are subject to tax if the sale is at retail. However, when a sale is conducted in which the seller is obligated, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts are not subject to tax. See subsection (b) of the enclosed copy of 86 Ill. Adm. Code 130.605. Please note that a sale is taxable even though a purchaser that receives physical possession of the property in this State, transports or sends the property out of this State for use outside the State or for use in the conduct of interstate commerce. See 86 Ill. Adm. Code 130.605(a)(2).

You state in your letter that you sell products that are shipped out of Illinois. We are assuming that you maintain an inventory in Illinois. When you make sales in Illinois, you are obligated to pay Retailers' Occupation Tax and to collect Use Tax from your customers. Enclosed is a new business registration packet that contains the NUC-1 registration application form.

If you are obligated when you make sales to customers located outside of Illinois, under the terms of an agreement with the purchaser, to make delivery of the property from a point in this State to a point outside this State, not to be returned to this State, provided that such delivery is actually made, the gross receipts from that sale are not subject to tax.

Please be aware that only organizations that make application to the Department of Revenue, are determined to be exclusively religious, educational, or charitable, and receive exemption identification numbers (an "E" number) are exempt from sales taxes. See the enclosed copy of 86 Ill. Adm. Code 130.2007. This number evidences that the Department recognizes the organizations as exempt from incurring Use Tax when purchasing tangible personal property in furtherance of their organizational purposes. If an organization does not have an E number, then its purchases are subject to tax. Organizations that are recognized as non-profit under Internal Revenue Code Section 501(c)(3), are not necessarily exempt organizations pursuant to Illinois tax law. Such organizations must obtain an Illinois "E" number to qualify. Please be aware that only sales to organizations holding the E number are exempt, not sales to individual members of the organization.

These organizations are also allowed to engage in a very limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in the enclosed copy of 86 Ill. Adm. Code 130.2005(a)(2) through (a)(4).

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

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If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.